

UNITED STATES DISTRICT COURT
for the
NORTHERN DISTRICT OF OKLAHOMA

1. WEE ONES, LLC,)	
)	
Plaintiff,)	
)	Civil Action No. 24-cv-00371-MTS
v.)	
)	
2. DANIELLE RENDER,)	
)	
Defendant.)	

COMPLAINT

Plaintiff Wee Ones, LLC (“Wee Ones”), for its Complaint against Defendant Danielle Render (“Render”), states as follows:

NATURE OF CASE

1. This is an action for trademark infringement and unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); and trademark infringement and unfair competition under the common law of the State of Oklahoma, and the several states.

THE PARTIES

2. Wee Ones is a Missouri limited liability company with its corporate office located at 13601 Lakefront Drive, Earth City, Missouri 63045.

3. On information and belief, Render is a citizen and resident of the State of Oklahoma.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over Wee Ones’ claims of trademark infringement and unfair competition under federal law pursuant to 15 U.S.C. §1338(a), and over Wee Ones’ claims of trademark infringement and unfair competition under state law pursuant to 28 U.S.C. §§ 1338(b) and 1367(a).

5. This Court has personal jurisdiction over Render because on information and belief, Render resides in Oklahoma within this judicial district.

6. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(1) because on information and belief Render resides in this judicial district.

FACTUAL BACKGROUND AND GENERAL ALLEGATIONS

Wee Ones' Adoption and Use of its DIVINE CREATIONS Trademark

7. Wee Ones manufactures and sells a wide array of fashion accessory goods including tutus, tiaras, sashes, garters, jewelry, infant and child items like bibs, burping cloths and pacifiers and hair accessories, hats, socks, and related goods in interstate and international commerce.

8. Beginning at least as early as January 2004, Wee Ones, through its predecessor-in-interest, began using the mark DIVINE CREATIONS on all of the aforesaid goods.

9. The mark DIVINE CREATIONS is unique and distinctive as applied to the aforesaid goods that are manufactured, promoted and sold by Wee Ones.

10. Since long prior to the acts of Render complained of herein, Wee Ones used and continues to use the mark DIVINE CREATIONS throughout the United States to identify and distinguish its aforesaid goods from those of its competitors.

11. Wee Ones advertises and promotes its goods under the DIVINE CREATIONS brand throughout the United States at its websites <https://weeones.com/> and <https://divinecreationsusa.com/>, and sells these goods branded with the DIVINE CREATIONS trademark throughout the United States.

12. Through Wee Ones' long and continuous use of its DIVINE CREATIONS trademark, customers have come to recognize its DIVINE CREATIONS trademark as indicating superior products with an excellent reputation, and to recognize Wee Ones as the source of the goods/products branded with the DIVINE CREATIONS trademark.

Defendant's Infringement of Wee Ones' Trademark

13. On information and belief, Render owns and operates an online clothing store which primarily provides collegiate associated apparel items.

14. On information and belief, subsequent to Wee Ones first use of DIVINE CREATIONS, Render began using DIVINE CREATIONS CLOTHING CO. for clothing.

15. On information and belief, subsequent to Wee Ones first use of DIVINE CREATIONS throughout the United States, Render applied to register the mark DIVINE CREATIONS CLOTHING CO. for clothing, and obtained U.S. Reg. No. 5,668,640 in International Class 25 for "Jackets; T-shirts; Graphic T-shirts; Sports jerseys."

16. The earliest date of use of DIVINE CREATIONS CLOTHING CO. alleged by Render is November 10, 2017, which is nearly fourteen (14) years after Wee Ones' first use in interstate commerce of its DIVINE CREATIONS trademark. During its two decades of use of its DIVINE CREATIONS trademark, Wee Ones has developed substantial common law rights in its DIVINE CREATIONS trademark throughout the United States.

17. The goods offered by Render under "DIVINE CREATIONS CLOTHING CO." are competitive with or related in the minds of consumers to the goods offered by Wee Ones under its DIVINE CREATIONS trademark.

18. Use of the designation "DIVINE CREATIONS CLOTHING CO." by Render is likely to cause confusion, mistake, or deception with respect to the goods sold by Wee Ones under its DIVINE CREATIONS trademark and with Wee Ones' commercial activities.

19. The existence of U.S. Reg. No. 5,668,640 for DIVINE CREATIONS CLOTHING CO. casts aspersions on Wee Ones' DIVINE CREATIONS trademark, and Wee Ones commercial activities that utilize its DIVINE CREATIONS brand, despite the fact that Wee Ones has used its mark DIVINE CREATIONS continuously for at least twenty (20) years, and nearly fourteen (14) years before Render Defendant began use of DIVINE CREATIONS CLOTHING CO.

20. On information and belief, Render's unlawful and infringing activities will continue causing confusion among customers, prospective customers, and others, causing irreparable harm to Wee Ones.

COUNT I

Trademark Infringement and Unfair Competition Under 15 U.S.C. § 1125

21. Wee Ones repeats, re-alleges, and incorporates herein by reference the allegations of Paragraphs 1-20 above as if fully set forth herein.

22. Render's use of DIVINE CREATIONS CLOTHING CO. in connection with goods and services in interstate commerce is likely to cause confusion, or to cause mistake, or to deceive as to (a) the affiliation, connection, or association between Render and Wee Ones; and/or (b) the origin, sponsorship, or approval of Render's goods, services, or commercial activities by Wee Ones, in violation of 15 U.S.C. § 1125(a).

23. Render's use of DIVINE CREATIONS CLOTHING CO., and continued ownership of Reg. No. 5,668,640 on DIVINE CREATIONS CLOTHING CO. casts aspersions on Wee Ones' DIVINE CREATIONS trademark, and Wee Ones' commercial activities using DIVINE CREATIONS, despite the fact that Wee Ones has used its mark DIVINE CREATIONS continuously for at least twenty (20) years, and nearly fourteen (14) years earlier than defendant Render Defendant began using DIVINE CREATIONS CLOTHING CO.

24. By using and registering DIVINE CREATIONS CLOTHING CO. Render has committed acts of trademark infringement and unfair competition in violation of violation of 15 U.S.C. § 1125(a).

25. Render's use of DIVINE CREATIONS CLOTHING CO., and continued ownership of U.S. Reg. No. 5,668,640 on DIVINE CREATIONS CLOTHING CO. are causing damage and irreparable injury to Wee Ones for which Wee One has no adequate remedy at law.

26. On information and belief Render's use of DIVINE CREATIONS CLOTHING CO., and acts of infringement and unfair competition will continue unless enjoined by this Court

COUNT II

Common Law Trademark Infringement and Unfair Competition

27. Wee Ones repeats, re-alleges, and incorporates herein by reference the allegations of Paragraphs 1-26 above as if fully set forth herein.

28. Wee Ones has used its DIVINE CREATIONS trademark throughout the United States prior to Render and, therefore, Wee Ones has superior rights based on prior use to Render in DIVINE CREATIONS and any mark containing or based upon DIVINE CREATIONS.

29. Render's use of DIVINE CREATIONS CLOTHING CO. is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association between Render and Wee Ones; and/or the origin, sponsorship, or approval of Render's goods, services, or commercial activities by Wee Ones, in violation of the common law of the several states.

30. Render's acts constitute common law trademark infringement and unfair competition under the laws of the State of Oklahoma, and other states, and have created a likelihood of confusion, and will continue to create a likelihood of confusion, all to the damage and irreparable injury of Wee Ones.

31. Wee Ones has suffered and is continuing to suffer irreparable harm as Wee Ones has lost and is losing control over the use of its common law trademark rights, and as Defendant benefits unlawfully from misappropriation of the goodwill symbolized by Wee Ones' mark DIVINE CREATIONS.

32. On information and belief Render's use of DIVINE CREATIONS CLOTHING CO., and acts of infringement and unfair competition will continue unless enjoined by this Court

PRAYER FOR RELIEF

WHEREFORE, in consideration of the foregoing, Wee Ones respectfully requests the Court to enter an Order and Judgment:

(A) That Render's use of DIVINE CREATIONS CLOTHING CO. constitutes trademark infringement and unfair competition with respect to Wee Ones use of its DIVINE CREATIONS trademark in violation of 15 U.S.C. § 1125;

(B) That Render's use of DIVINE CREATIONS CLOTHING CO. constitutes trademark infringement and unfair competition with respect to Wee Ones use of its DIVINE CREATIONS trademark in violation of the common law of Oklahoma and the several states;

(C) Permanently enjoining and restraining the Defendant Render and each/any of her agents, representatives, employees, officers, attorneys, successors, assigns, affiliates, and any persons in privity or active concert or participation with any of them from using the trademark "DIVINE CREATIONS CLOTHING CO.," and "DIVINE CREATIONS" as a trademark or trade name component or otherwise, to market, advertise, distribute, or identify Render's products where that designation would create a likelihood of confusion, mistake, or deception with Wee Ones' DIVINE CREATIONS trademark;

(D) Pursuant to 15 U.S.C. § 1119, directing the Director of the United States Patent and Trademark Office to cancel Render's U.S. Trademark Registration No. 5,668,640 for "DIVINE CREATIONS CLOTHING CO." in International Class 25;

(E) Awarding Wee Ones Render's profits from Render's acts of infringement and unfair competition in violation of 15 USC § 1125, said amount to be trebled, together with prejudgment interest, pursuant to 15 U.S.C. § 1117;

(F) Awarding Wee Ones all damages it sustained as the result of Defendant's acts of infringement and unfair competition in violation of 15 USC § 1125, said amount to be trebled, together with prejudgment interest, pursuant to 15 U.S.C. § 1117;

(G) Awarding Wee Ones Render's profits from Render's acts of infringement and unfair competition in violation of the common law of the State of Oklahoma and the several states;

(H) Awarding Wee Ones all damages it sustained as the result of Defendant's acts of infringement and unfair competition in violation of the common law of the State of Oklahoma and the several states;

(I) Awarding Wee Ones punitive damages from Render's acts of infringement and unfair competition in violation of the common law of the State of Oklahoma and the several states;

(J) Awarding Wee Ones its reasonable attorneys' fees and costs pursuant to 15 U.S.C. § 1117; and

(K) Granting Wee Ones such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Wee Ones demands a trial by jury in this action of all issues so triable.

Dated: August 8th, 2024

Respectfully submitted,

By: /s/ Jared M. Burden
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